IS A BANK CHECK AN ASSIGNMENT PRO TANTO OF THE FUND ON DEPOSIT?—Before the Negotiable Instruments Law there was a clear conflict of authority as to whether a check for a portion of the account to the credit of the drawer was an assignment *pro tanto* of the fund. The grounds of these decisions have been so well stated and so thoroughly discussed that it would be idle to repeat them here. See ZANE, BANKS AND BANKING, § 146 et seq.; DANIEL, NEGOTIABLE INSTRUMENTS, § 1635 et seq.; MORSE, BANKS AND BANKING, § 490 et seq.; 2 RANDOLPH, COMMERCIAL PAPER, § 643 et seq. In the following cases it was held that the check did not operate as an assignment: *Nat. Com. Bank* v. *Miller*, 77 Ala. 168; *Satterwhite* v. *Melczer*, 3 Ariz. 162, 24 Pac. 184 (semble); *Bank* v. *Boettcher*, 5 Colo. 185; *Reviere* v. *Chambliss*, 120 Ga. 714; *Harrison* v. *Wright*, 100 Ind. 515; *Bank* v. *Bank*, 78 Ind. 577, 585; *Carr* v. *Bank*, 107 Mass. 45; *Sunderlin* v. *Bank*, 116 Mich. 281; *Bush, Redwood & Co.* v. *Foote*, 58 Miss. 5; *Dickinson* v. *Coates*, 79 Mo. 250; *Jones* v. *Jones*, 93 Tenn. 353; *Purcell* v. *Allemong*, 22 Grat. 739 (semble); *Bank* v. 46 N. J. L. 255; *O'Connor* v. *Bank*, 124 N. Y. 324; *Hawes* v. *Blackwell*, 107 N. C. 196; *Bank* v. *Brewing Co.*, 50 Oh. St. 151; *Railroad Co.* v. *Bank*, 54 Oh. St. 60; *Bank* v. *Gill*, 6 Okl. 560; *Maginn* v. *Bank*, 131 Pa. St. 362; *Akin* v. *Jones*, 93 Tenn. 353; *Purcell* v. *Allemong*, 22 Gratt. 739 (semble); *Bank* v. *Chilberg*, 14 Wash. 247, 44 Pac. 264; *Florence Mining Co.* v. *Brown*, 124 U. S. 385; *Fourth Street Bank* v. *Yardley*, 165 U. S. 634; *Hopkinson* v. *Forster*, L. R. 19 Eq. 74; *Schroeder* v. *Bank*, 34 L. T. (N. S.) 735. On the other hand it was held in the following cases that the check operated as an assignment: *Munn* v. *Burch*, 25 Ill. 21; *Brown* v. *Schintz*, 202 Ill. 509; *Kuhnes* v. *Cahill*, 128 Iowa 594, 104 N. W. 1025; *Blades* v. *Bank*, 101 Ky. 163; *Gordon* v. *Müchler*, 34 La. Ann. 604; *Fonner* v. *Smith*, 31 Neb. 107; *Simmons* v. *Bank*, 41 S. C. 177; *Raesser* v. *Bank*, 112 Wis. 591. In Illinois, Iowa, Kentucky, Nebraska and Wisconsin, since the decisions in the above cited cases, the Negotiable Instruments Law has been enacted, by express provision of which a check shall not operate as an assignment of the fund. Thus it seems that until a very short time ago it was only in South Carolina and Louisiana that a check operated as an assignment, and in *Gordon* v. *Müchler, supra*, the Louisiana court pointed out that on this point their law differed from the common law.

In *Wasgatt* v. *First National Bank of Blue Earth*, decided January 26, 1912, (134 N. W. 224) the supreme court of Minnesota held that a check on a bank in which the drawer has funds subject to check is an assignment of such funds of the drawer to the amount of the check. The defendant bank on which the check was drawn refused to pay same for the reason that the drawer had died before presentment. The court, by BUNN, J., said: "The record presents squarely the mooted question whether a check on a bank, given for only a part of the funds of the drawer on deposit, is an assignment *pro tanto* as between the drawer and the payee, and as between the payee and the bank when the check is presented for payment. This question is an open one in this state."

The uniform Negotiable Instruments Law, which is not in force in Minnesota, has been adopted in 34 states and territories. For years business men and the bar generally have urged uniformity in the law of commercial paper

in the several states, with the result, as above stated, that in over two-thirds of the states and territories there is now in force the so-called Negotiable Instruments Law. In view of this effort for uniformity the decision in the principal case seems especially unfortunate. The court conceded that the matter was with them an open question and that there were the two lines of authority. As pointed out above the very great weight of authority even in the absence of statutory provision is opposed to the Minnesota court's conclusion. Not only is the numerical weight of authority opposed, but the best reason, it is believed, is with the cases holding the check not an assignment. Here was an opportunity for the court to manifest a broad minded appreciation of the situation and the effort of years for uniformity in this branch of the law. The court's inability to look beyond the borders of its own state is very much to be regretted. R. W. A.

THE "FINGER-PRINT" CASE.—On February 16, 1912, Thomas Jennings was hanged in Chicago for murder. The sustained effort to secure the accused's freedom has resulted in the judicial recognition, for the first time in a court of last resort of one of the United States, of the use of finger prints as a system of identification, of their admissibility in evidence for the purposes of comparison, and of the status as experts of those conversant with the workings of the system. *People* v. *Jennings* (Ill. 1911) 96 N. E. 1077.

Upon the trial it was established that at the time of the murder the back porch of the victim's home had been recently painted. Entrance to the house was gained through a rear window of the kitchen. Near this window was the porch, on the railing of which a person entering the window could support himself. On the railing in the fresh paint was the imprint of four fingers of someone's left hand. This railing was removed in the early morning after the murder by the officers from the identification bureau of the Chicago police force and enlarged photographs were made of the prints. The accused had once been a prisoner in the penitentiary at Joliet, where a print of his fingers was taken, and another print was taken after his arrest on the charge of murder. These impressions were likewise enlarged for the purpose of comparison with the enlarged photographs of the prints on the railing. Four witnesses, over the objection and exception of defendant's counsel, testified as experts that in their opinion the prints on the railing and the prints taken from Jennings' fingers by the identification bureau were made by the same person. Error was assigned on several other grounds, but the ground relied upon by counsel was the admission of the evidence of the finger prints, and the case has been known as the "finger-print" case.

In pronouncing the evidence as to the finger prints admissible, Chief Justice CARTER, speaking for the court, says: "It is further contended that the evidence as to the comparison of photographs of the finger marks on the railing with the enlarged finger prints of plaintiff in error was improperly admitted. No question is raised as to the accuracy of the photographic exhibits, the method of identifying the photographs, the taking of the finger prints of the plaintiff in error or the correctness of the enlargements, as shown by the